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Jurisdiction of a National Guard Board Disputed-The Governor's Reply to an Imputation of Prejudice Col. Bacon Re news It, and Mr. Coyne Calls It Cowardly. Many men whose faces still bore the bronzing of Cuban suns were before Justice Beekman of the Supreme Court yesterday to hear the argument on the motion of Major Clinton H. Smith of the Seventy-first Regiment of the National Guard of the State of New York to make permanent the temporary writ of pro hibition he recently obtained preventing the Examining Board appointed by Gov. Roosevelt from inquiring into his moral character. eapacity and general fitness to be an officer of the National Buard. The temporary writ granted last week stayed inquiry meanwhile by the Examining Board. Col. Alexander S. Bucon appeared for Major Smith and Deputy Attorney-General John H, Coyne represented Gov. Roosevelt and the Examining Board.

. A National Guard board of inquiry recently reported that the conduct of Major Smith at the battle of San Juan Hill was "to the prejudice of good order and military discipline. Smith averred that the hearing was secret ngainst his protest, that evidence was all duced when he was not present and that it is proposed on this evidence relating to his con lust as a volunteer in the service of the United States to have the Examining Board make report to Gov. Roosevelt on which he will be dismissed from the State National Guard. He contends that the Governor is prejudiced against him and that it is not intended that the Examining Board shall give him a fair hearing. He deales jurisdiction to try him. and says that as he was honorably discharged from the Federal service his acts while in that service cannot be used to oust him from the State service. On the merits he says there is no case against him.

The return of Gov. Roosevelt to the writ says that Officers Smith and Whittle of the regiment had themselves asked that an in quiry be made, owing to published statements reflecting on the conduct of the officers of the regiment. He ways that all the proceedings have been in conformity with the provisions of the Military Code. He adds:

"I have to deny that, so far as I'am concerned, there is the slightest desire to oppress the said petitioner or to do him anything but

As to the procedure adopted he says that Col William W. Ladd, Jr., Judge Advocate, to whom the report of the Court of Inquiry was presented, had decided that Major Smith could not be tried by court-martial, but had advised an examination into his character under section the of the Military Code, under which the present proceeding was taken. The return says fur "I specifically deny that the composition of

the court is such that it would carry out my expressed opinions, or that the said board' sole purpose is to convict petitioner upon testimony already taken in said Court of Inquiry. timony already taken in said Court of Inquiry, and in this regard I have to say that the said Board of Examination is constituted of persons whom I know to be of the strictest integrity, and I fully believe that their proceedings will be conducted in the fairest, frankest and most honorable manner, giving to the retributer every opiortunity that he may desire upon the examination to satisfy said board of his fitness to hold a commissioned office in the National Guard of the State of New York. So far as I am concerned no other course will be

upon the examination to satisfy sale board of his fitness to hold a commissioned office in the National Guard of the State of New York. So far as I am concerned no other course will be tolerated, and in the disposition of this matter there is no intent to harass, annoy, courses or persecute any person, nor to do any act that the good of the military forces of the State of which I am the Commander-in-Chief does not demand in the premises."

Col. Bacon declared, that his client had a blameless record and had talien sick, high unto death, just before the battle of San Juan Hill. The conduct of the Seventy-first Regiment, he said, was glorious at the battle, and the rough riders and other troops had made their charge when the Spanlards had run away. He said: "The conduct of the men, and officers of the Seventy-first Regiment was brave in the extreme and was braver than that of the troops who charged San Juan Hill after the Spanlards had left it—troops that greatly outnumbered the enemy."

He told of the difficult trail that the members of the regiment had to follow while they were being picked off by sharpshooters. He spoke of the conduct of Smith at Las Guasimas as brave, and continued:

"Did not Gen, Shafter remain on his transport? He did not leave it for five dave until a dock of some kind had been built. There were derriegs that might have let him down, but there Gen. Shafter remained for five days. There is no criticism as to him."

He said that, If Col. Smith the used the word

but there Gen. Shafter remained for five days. There is no criticism as to him."

He said that, if Col. Smith the used the word Colonel throughout had run away, it did not follow that he would run away again, and men who have been considered brave have been known to run away from their first battle. Concerning the report of the Board of Inquiry he said:

of Inquiry he said:
"It was strictly partisan, as the inquiry was
a persecution and not a prosecution. The
report went to the Major-General, who made ernor, who made a report that was still more

er."

he bresent order of the Governor for the mination, he said, included some things had heard in Cuba, and its terms almost reteil the conviction of Major Smith. Said Col. Bacon.
"It is in all respects as if the jury notice sentto jurymen should give the District Attorney's side of the case and direct them to

eonylet.

He read part of the Federal military law regarding an inpulity into the character of an officer. He said the law provided that as a weak or jealous commander might use such an inquiry for oppression, it could be ordered only at the request of the accused officer. If that provision had been made for the present case, Col. Bacon said, it could not have been more appropriate.

case. Col. Bacon said, it could not have been more appropriate.

Lawyer Coyne said in opening that it was groundless to suppose that the Examining Board would not proceed according to law. The petitioner was in fact saying in his application: We are apprehensive that you are going to proceed in a prejudiced way. There was not a single bit of evidence that there is ground for such apprehension. There was only the bald statement that the Governor is persecuting Smith and has ordered the board to convict him. The mere fact that Major Smith had made such a charge against his from the first had made such a charge against his from made in-Chief went far to prove the truth of the charges made against him and was in itself improper for an offleer and was against good order and military discipline. Mr. Lovne added:

was in itself improper for an officer and was against good order and military discipline. Mr. Covne added:

"I make no apology to Major Smith when I say that his action in making this attack on his Commander-in-Chief in his moving papers was cowardly. I say Major Smith's conduct in trying to hide behind a civil court by asserting that Goy. Roosevelt had prejudged his case is cowardly. There is absolutely nothing to justify such an attack upon the Commander-in-Chief of this State, who is beloved by the people for his manhood and uprightness, who is admired by the neonle for his gallant action in the very battle in which Major Smith has been charged with unmilitary conduct.

Col. Bacon in reply said that he was in the position of the negro who "suspicioned" his wife of stealing because he had caught her at it. He said: "We suspect the Governor because we have caught him at it." He became very heated as he continued:

"Col. Smith refused to resign, and he will fight this case as for his own, life. This case will go to the Supreme Court of the United States before he will permit them, by any secret proceedings, to take from him what is dearer than life. He will fight to the last day of his life rather than be railroaded by a secret tribunal and deprived of the benefit of his military services. Everybody knows that Abbary almost disorganized our forces in Cuba"—

"Well. I don't know it," interrupted Justice Beekman, "andithere is no necessity for casting aspersions on anybody here.

"Well. I don't know it," interrupted Justice Beekman, and the terrupted it was an electric to the him it is about time for the civil courts to feach the military courts at Albary something about their duties."

Mr. Covne said that in view of the character of the papers presented the Governor should not be required to disclaim any of the state-

their duties."

Mr. Covne said that in view of the character of the papers presented the Governor should not be required to disclaim any of the statements, and the Court should dismiss the case on Major Smith's own showing.

Justice Beekman gave counsel time to submit briefs, reserving decision.

# CAPT. KECK STEPS OUT.

Resigns from the Seventy-first Regiment "Under Pressure of Business."

The resignation of Capt. Frank Keck of Company I of the Seventy-first Regiment was as nounced in the armory last night. Capt. Keck was Major of the Third Battalion at Santiago and took his battalion up San Juan Hill. His resignation was sent in to Col. A. T. Francis, acting commandant of the regiment. The reason assigned was "pressure of business." Col. Francis, when seen last ovening at the armory, said that Capt. Keek had resigned, but the only reason he knew for the resignation was that assigned by the Captain himself. Some of the officers of the regin ent saidthat the resignation was a sequence of the recent

GOVERNOR AND THE 71ST.

MAJOR SMITH'S WRIT ARGUED IN THE SUPREME COURT.

Jurisdiction of a National Guard Board lawyer in civil life.

MOSQUITO INDIANS GIVE UP. Nicaragua Gets All Their Coast Rights

American Interests Endangered. NEW OBLEANS, La., May 23.-Letters from Bluefields, Nicaragua, announce that at the conference of the head men of the Mosquito Indians, held in that town, the Indians surrendered the provision made by Nicaragua with them when it took possession of the country in 1804. It was that the financial and tariff system of the Mosquito Reservation inow the province of Zelaya) should be independent of Nicaragua, the duties being limited to the cost of the administration of the officers of the province and the money derived from them being expended annually within the reservation for salaries and public improvements. To this agreement Great Britain, which until 1864 exercised a projectorate over the Mosquito Reservation, was a party. The Nicaraguan Government has always desired to free itself from the limitation of its power contree itself from the limitation of its power con-tained in this agreement or treaty, and Gen. Torres, Governor of the province, at the suggestion of President Zelaya, called a con-ference of the Mosquito head men for May 20 to revoke and caused the clause in the treaty declaring the tariff and financial system of the old reservation separate from those of Nic-

old reservation separate from those of Nicaragua.

The Mosquito Indians are dying off and Gen. Torres had great difficulty in getting shough of them together to speak for the tribe. They were hunted up everywhere and brought in from the mountains and mining district and enough were assembled to represent the Indians in the eves of Nicaragua, and the treaty of 1844 was formally cancelled and revoked, giving Nicaragua full power to administer the tariff and financial affairs of the coast country free from all conditions and limitations and as it sees fit. The change means the immediate increase of the duties threefold and the diversion to Managua of the large sums now expended annually in the improvement of the coast country.

pended annually in the improvement of the coast country.

The change, although made by the Mesquito chiefs, formerly the nominal sovereigns of the country, concerns them very little, but will affect injuriously the American and other commercial interests in Bluefields. The Americans say that they cannot continue business under the exorbitant fax system that will be put in operation. They assert that it is a game of freeze-out being played by Zelaya and his filowers to get possession of the valuable property on the coast. Having thus completed the work for which he was sent to Bluefields, Gen. Torres is to leave there on Thursday, May 25, for Managua, the capital.

### LETTED ON A FOX TERRIER.

He Chased City Marshals on to a Grape Ar-

bor, so They Seized Him. Emil W. Muench, a butcher of 1056 Second wenue, obtained a judgment in the Yorkville Municipal Court on May 22 for \$50 against Miss Julia Reynolds of 102 East Fifty-eighth street for a meat bill. Miss Reynolds promised to satisfy the judgment by paying \$5 ; week until the debt was wiped out, but failed to keep her promise. The butcher got out a writ of attachment on Monday and in the evening City Marshals Marks and Lee went to the defendant's house to levy on her property.

Miss Reynolds was not at home, and the marshals were examining the furniture with a view to making a guess at \$50 worth when a big fox terrier appeared, growing, from another room. Marks jumped upon a table as

big fox terrier appeared, growling, from another room. Marks jumped upon a table as the dcg sprang toward him. Lee got behind an armchair, but as the dog went around the chair he also tried to get on the table. In the scramble he upset it and spilled the other marshal upon the floor. The dog seized the marshal would get a better grip. He tried to get the overturned table between himself and the enemy and the two had; a, hot chase around the room, the marshal throwing down chairs behind him to block his pursuer. The other marshal had made his escape into the kitchen and after a time Marks got sufficiently ahead of the dog to jump into that room and bang the door behind him.

The two men dashed into the hallway through the kitchen door just as the terrier entered the hall by the sitting room door and again made for them. They ran into the rearyard, the dog dose at their heets, and finding no way of escape there climbed the trell's work of a grape arbor out of reach of their pursuer. They stayed there until the servant went into the vard with some meat and quieted the dog so that she could slip a muzzle over its head. Then they descended from their perch. The dog was safe with his muzzle on, so by way of revening for the trouble they had undergone they levisd on him, leading him away by a rope. The servant told them that the dog was valued at \$50, and as a precaution against loss they took Miss Reynolds's bicycle along, too.

The terrier was left in the dog hospital acr as the street from the Yorkville Court and the bicycle in the Court House. Both will be soid at auction unless Miss Reynolds redeems them within a week by paying the judgment and costs.

within a week by paying the judgmen

TO GO ON A SCIENTIFIC TRIP.

iladelphians Who Will Make a Study

the Tribes in Northern Burmah. PHILADELPHIA, May 23.-Alfred C. Harrison Jr., Dr. W. H. Furness and Dr. H. M. Hiller, who n last November returned from a long exploration of Borneo and brought with them valuible collections in many branches of ethnology and natural history, having traversed country that no other white men had covered, have arranged the itinerary of another trip of scientific exploration. Dr. Furness will sail Saturday for London and Dr. Hiller and Mr. Harrison will leave New York on June 14. They wil meet in London on June 21 and start for Marseilles. The French mail steamer will carry them through the Suez Canal to Colombo Ceylon. Two weeks will be spent in this

Ceylon. Two weeks will be spent in this island, then they will go to Calcutta, which they expect to reach about Aug. 1.

They will go through India by rail to Lahore. There steam travel will end and the trip into the "beautiful vale of Cashmere" will be the first break from the luxuries of civilization. Coming back they will journey along the southern side of the Himalayas until they reach the Irawadi River, which they will descend through Burmah to Mandalay, going thence to Hangoon, to Singapore and into the Malay States. There they will, it possible, study the Sakai tribe, who are supposed to be kin to the Borneans. They will then return to Singapore, pass through the South Sea Islands to Australasia and reach San Francisco via the Fiji. Danwan and the Hawaiian Islands.

The trip will consume at least a year. The bulk of the scientific work will be in anthropology and ethnology, and will be done in the northern part of Burmah, among the Naga tribes and the Lushais, neither of whom have been much studied. It is possible, also, that they may enter Thibet. The results of the trip to Borneo are at the University of Pennsylvania.

# RECREATION PIERS AN EVIL?

Alderman Stewart of Brooklyn Thinks He

Discovers Tendencies to Vice. The Board of Aldermen received from the Council yesterday a resolution providing for the erection of heating and lighting plants in the recreation piers without public letting at an expense of \$35,000. The Brooklyn delegation opposed the resolution. Alderman Ackerman said he thought it was the entering wedge for the expenditure of \$500,000, and the first step of the city in the concert hall busineas. Alderman Stewart (Rep., Brooklyn) opposed the measure because he believes recreation piers are immoral. He said:

What if a poor woman goes to the recrea tion pier and her husband comes home after a hard day's work along the docks, cold and hunnard day's work along the docks, cold and hungry, and finds the fire out and no supper ready? Suppose the man goes to the pier in the evening and meets a flashily dressed woman, and gets home about 1 o'clock in the morning? It would need a lane of policemen to keep the piers in order. It is almost impossible for a woman to waik along the streets of Brooklyn alone without being insuited."

Alderman Glick 'Tam. 'raised a storm of objections by saying that he did not believe that Mr. Stewart ever made an engagement with a woman on a pier or anywhere else. He was called to order. Alderman Goodman (Rep.) said that no such condition of affairs as that described by Mr. Stewart extracted in Manhattan borough and that he had berfeet faith in the ability of the police to protect all persons in the city.

The Alderman refused to concur in the reson.

The Aldermen refused to concur in the reso lution and it was made a special order for next week, when the Municipal Assembly will meet on Wednesday.

Divorce for Isabelle Urquhart

Referce Edward F. Brown has made a report o the Supreme Court that Isabelle Urquhart, the actress, is entitled to an absolute divorce from Guy Standing. The evidence, which is scaled, concerned his relations with an act-ress, whose name is withheld, at Larchmont.

THEATRICAL AMUSEMENTS.

WHAT IS BEING DONE THIS WEEK OF THE NEW YORK STAGE.

vide a Good Variety of Diversion-A New and Typical Farce in Vandeville-Rose Watkyns Goes to the Forrest Home. Theatricals this week are starred with novelty, at Wallack's by Mile. Pilar-Morin in "Ms Cousin" and at the Harlem Opera House by Miss Nethersole in "The Profligate," The last-named actress appears also in "Carmen," "Camille" and "The Second Mrs. Tanqueray. e season at the Empire is prolonged by the Frohman Company in "His Excellency the Governor," and at the Garrick by Mrs. Carter "Zaza." The plays which are to stop with next Saturday night's performances "Shenandoah" at the Broadway and Tennessee" at the American. Stuart Robson is at the Grand Opera House with "The Meddler." The Columbus has "Too Much Johnson" and the Star has "Gettysburg." Still current are "An Arabian Girl" at the Herald Square 'A Reign of Error" at the Victoria. Great kuby" at Daly's, "The Man in the Moon" at the New York, "The King of the Opium Ring" at the Academy of Music, "Frminie" at the Casino and "The Charleton" at the Fifth Avenue. In the vandeville bills no sign of waning business is shown. The continuous show rosters are quite as inviting as any of the past winter. Minnie Seligman is at the Pleasure Palace, where mon Moore is the chief specialist. Rose Coghlan is the dramatic player at Proctor's. and here Henry Lee's imitations are conspicuously placed. Milton Nobles is the chief comedian at Keith's, but Cissic Loftus and Ching Ling Foo take equal rank with him in the bill. Dolan and Lenharr and the Folly trio are favored specialists at Pastor's. Included in the Eden Musée exhibits are wax figures and motion pictures that are new. Of the music halls, Koster & Bial's has a long and expensive programms of specialties. Five more performances of "Helter Skelter" will be given at Weber & Fields a before it closes. Watson and Dupree head the buriesquers now at the Dewey.

Because Gerald Griffin scolds well, Ide and May Ward provided a spell of it early in their new farce for him at Keith's. They placedhim as an elderly husband opposed to a young wife His fondness for endearing terms that included the word "boy" was explained by the authors to be due to his sensitiveness as to his age. They didn't excuse so reasonably his impatience with a pretty woman, but any one who has seen him fret, with his characteristic accompaniments of stamping, hitting the air and pulling his own hair, will not wonder much at their letting him lose his temper easily Then the writers let the wife den boxing gloves and handle him rather roughly. It is not a kindly comment on the standards of vandeville farce to hint that when there is a lack of reasonable motive, boxing gloves, an axe, or some equally forceful accessory will overcome the fault. Perhaps the Misses Ward did not mean to hint this. They started their actor scoiding, and that was the essential. He made a wager that his wife could not keep silent ten minutes. For one minute the husband tested her self-control with questions intended to aggravate her displeasure. These failed to make her talk. Then an old friend of his called unexpectedly. For a moment the husband was so pleased that he forget his wife 's presence. Then he introduced his friend. The wife was affability itself in all but speech. When she had barried several conventional queries the husband became worried, and in pantomime released her from her wager. But she refused this offer. The guest asked an explanation of her behavior. The husband told him the woman was deaf and damb. Then the visitor went into reminiscences of bygone escapades in which the husband had shared. The wife listened, and it was apparent she held her tongue with difficulty. As the time of the wager was about up the husband had shared. The wife listened, and the was apparent she held her tongue with difficulty. As the time of the wager was about up the husband bagan husbang his caller out. The clock struck indicating that the bet was won, and the wife bade the caller good day. He retreated in dismay, and she began to make up in volubility for time lost. Then there was good reason for the man's distress. That meant laughter for the Keith audience. Next the husband declared that the entire episode was merely a test of his wife's loyally. With such a farce that is a sure signal for the curtain, which, somehow, must fail on a deceived but penitent wife. Jedia Knott was helpfult to the new "star" of a troupe of three, and her resemblance to Lillian Burkhart Dickson was surprising. Then the writers let the wife don boxing gloves and handle him rather roughly. It is not a kindly

William Elton, long ago a low comedian in the Wallack company, will reappear next season in "A Little Ray of Sunshine." Robert Drouet will be Viola Allen's chief companion in "The Christian" John Drewwill use "The Tyranny of Tears," and the author, Haddin Chambers, may come over to see the first per formance here. Henry Lee will be in "Ber Hur." Camille D'Arville is going into vaudeville with songs from light operas. Jerome Sykes is to be a star in "Chris and the Won-

derful Lamp," by Broadhurst and Sousa. Laurence Irving, Sir Henry's son, who translated Sardou's "Robespierre," has been collaborating with Thomas Hesselwood lately A result is "The Lion and the Unicorn." a oneact piece, accepted by Weeden Grossmith. The action is in the time of Charles II. in England. action is in the time of Charles II. in England. They are now writing a romantic historical drama designed for Julia Marlowe-Taber and Robert Taber. The understanding here in New York, however, is that Mr. and Mrs. Taber are not likely to ever act together again.

Herbert Beerbohm Tree will give a matinée at Her Majesty's Theatre to-day in honor of Queen Victoria's birthday. A patriotic programme will be sprinkled with songs for the audience to join in. Boys of haval and military schools are to come in uniform, with brass bands and banners, and sing in chorus "God Save the Queen' before the rise of the curtain. This will be transmitted over the electrophone to Windsor Castle, so that the Queen herself may hear it.

to Windsor Castle, so that the Queen herself may hear it.
Winifred Arthur Jones, daughter of Henry Arthur Jones, played the leading part in her father's play. "The Manouvres of Jane." at Cambridge lately. Many London actors and managers went by a special train to see her. The card scene from "The Masqueraders" was given also.
Mrs. Selden Williams and Charles Franklin are looking around for a London theatre in which to produce a new opera of their own. It is Egyptian in theme and called "Sesostris." When produced in Cairo last March it attracted attention.

when produced in Cairo last March it attracted attention.

Mrs. Clifford, the novelist, has had a play accepted by Mrs. Kendalfor production in the fall. If it at all resemble Mrs. Clifford's books the London censor may as well sharpen his pencil. Alice Nielson coolly left an understudy in her place during half an hour of a performance at a Chicago theatre while she went to sing at a hanquet. Her absence was explained to the audience, but no rehate was offered.

Rose Watkyns has been admitted to the Forrest Home in Philadelphis. She was chosen by the trustees from about twenty applicants. Mrs. Watkyns is 71 years old. She came of a theatrical family in England. Her good standing on the American stage was gained in conjunction with her husband, Harry Watkyns, in adramatization of Ouida's 'Under Two Plags' but for many years before that she had played in the old-time stock companies. Mrs. Barney Williams is her sister and Amy Lee her daughter.

williams is her sister and Amy Lee her daughter.

Those who saw Annie Russell on the steamer when she sailed for London saw how ill she looked. It came as no surprise to them that she was unable to appear there in "The Mysterious Mr. Bugle." She has gone to Margate, where she will rest. When her health is restored she will perhaps play in London, as originally intended.

The last train at night on the Long Island Railread, the one that suburban theatregoers have to take, leaves this city too early for them to see the end of some of our long plays. W. D. Mann, manager of the Heraid Square, wrote the other day to the Long Island Railread Company asking them to put on a later train. Owar Hammerstein decided last avening not to close the Vetoria next Saturdaynight. The favorable weather was the cause of the change of blan. No new date has been set for closing. The music hall will keen open until it is too warm for indoor amusements, when the new roof garden will be opened to the public.

SEMBRICH WILL RETURN. Signed a Contract on Monday for Perform

ances Next Senson.

Word was received in New York yesterday that Mme. Marcella Sembrich had signed a contract in London on Monday to return next season to this country with the Maurice Grau opera company. Mme. Sembrich has been engaged for sixty appearances. It was somewhat uncertain when she sailed away three weeks ago whether or not she would return next year. Mme. Sembrich was not content with the success she made here last year in the Italian cess she made here last year in the Italian operas. She is anxious to be heard in "Faust," "Lohengrin," and "Die Meistersinger." For the latter opera she was prepared last winter, but was able only to sing part of the work at the benefit given for Anton Seill. Mme. Sembrich had not followed the example of the other singers and mentioned in her contract the operas in which she was to appear. So brilliant as her success was in the Italian repertoire, Mr. Grau had made contracts with some

of the other singers which entitled them to the right to sing these roles as many times as it was found profitable to repeat the operas. Mme. Sembrich wished these roles explicitly included in her contract, and that matter re-mained in dispute until her meeting in Paris with Mr. Grau, when the contract was finally signed.

Playhouses Enough Are Still Open to Pro-AGED POSTMASTER STRUCK DOWN S. J. Close of Stanwich, Conn., Assaulted

Murderously at His Store. GREENWICH, Conn., May 23.-Shadrach Jackson Close, Postmaster and keeper of a grocery store at Stanwich, seven miles north of Greenwich village, is lying at the point of death at his home as the result of an assault committed upon him some time between 8:15 o'clock on Monday night and 5 o'clock this morning. His wife found him unconscious lying on the stoop of the store early this morning, and he has not yet regained consciousness. Dr. L. P. Jones. the medical examiner, gives no hope of his recovery.

Mr. Close is 78 years old and his regular

routine of life is known to all his neighbors. On Monday night at 8 o'clock his son William put up the shutters on the store windows and went to his home a short distance away. Mr. Close was then in the store and his wife had retired, feeling fatigued. At 8:10 o'clees Mr. Close gave out mail to two of his o'clees Mr. Close gave out mail to two of his neighbors, and they say that as they departed they saw two men on the edge of the store stoop. Mr. Close usually takes his cash from the money drawer about 8 o'clock, buts it in a tin box, lava it on his day book, and before carrying them to his house, which is at the back of the store, makes a tour of the piazza. He was probably rentering the store when he received a blow on the left side of the head which fractured his skull at the base. Then to make sure of his silence the assailant choked him, as is evident by the flager marks left. The box of money, containing about \$10, and the book were then taken, but a pocketbook containing \$50 in Mr. Close's inside pocket was left undisturbed.

Mrs. Close awoke this moraning and in looking about for her husband, stumbled over him on the porch. Her son William and a neighbor, Thomas Solieck, carries him in the house. Deputy Sheriff Fitzroy and Prosecuting Attorney Walsh have been on the scene and Fred McCann, two young men, neighbors of Mr. Close were lodged in the lockap. They deny all knowledge of the affair, but admit being in the neighborsbood at 8 o'clock. The Close family think they are innocent.

Dr. Jones, the medical examiner for the Coroner, and his son, Dr. Millo Jones, are at the house, hoping that Mr. Close may regain consciousness long enough to tell who his assailant was.

At So'clock, to-night Sheriff, Fitzroy brought. o'cleek Mr. Close gave but has they departed neighbors, and they say that as they departed

#### BLIND MRS. MULLANEY'S WILL. The Bulk of Her Estate Bequeathed to "ti

Singer Priest "-A Contest. YORKERS, May 23 .- The Rev. Thomas P. Meoughlin, the pastor of Transfiguration Church. in Mott street, New York city, who is familiarly known as "the singer priest," on account his song lectures, is accused by Mrs. Mary Foley of Summit street, this city, of having exerted his influence on her blind aunt, Mrs Ellen Mullaney, recently deceased, in the drawing up of her will, which is now on file in Surrogate Theodore H. Silkman's court, and which Mrs. Foley contests.

Ellen Mulianey for years conducted milk business in Yonkers, from which she reaped a considerable fortune. She accumulated sufficient money to erect one tenement after another on property that has since doubled in value along Riverdale avenue, this city. Mrs. Mullaney had been blind for a long time. She lived alone in Hudson street. She placed implict confidence in little girls whom she employed to collect her rents, and who also counted the blind woman's money returns from her buildings.

placed implicit confidence in little girls whom she employed to collect her rents, and who also counted the blind woman's money returns from her buildings.

Mrs. Mullaney's acquaintance with Father McLoughlin dates back to the time of his curateship in the Church of the Immaculate Conception, this city. He became her confessor, spiritual adviser and friend. In her will she bequeathed portions of her estate to several Catholic institutions. The residue she bequeathed to father McLoughlin. The will, which was offered for probate, was dated three years ago. At the time of the making of her will, Mrs. Mullaney gave to the priest deeds of her property. These Father McLoughlin never had recorded until after the blind woman's death.

In the contest papers filed by Mrs. Foley the grounds taken are that Mrs. Mullaney was of unsound mind when the will was signed and that undue influence was brought to bear to have her sign it.

HOME FOR NEEDY LITERARY MEN Pringle Will Pronounced Valid-\$125,000 to Found the Home.

The will of Samuel Milligan Pringle, which leaves his estate to found the Pringle Memorial Home for the care of needy men, a prefer once to be given to educated and literary men, is held valid by a decision of Justice Beckman of the Supreme Court made yesterday. An tion to have the provision dec was brought by Harry M. Chandler, IS years old, a student of Princeton, and a rejarive. The will gave the income of his estate for life to Pringle's brother-in-law. David W. Fenton, who died last January, and provided for the incorporation of a society to carry on the home. such a society to carry on the home. Such a society was recently incorporated and took charge of the estate.

Mr. Pringle's sister. Mrs. Margaret Pringle Fenton, made a similar bequest in her will of all her estate to this home, and the society has also taken charge of her estate. The combined estates amount to \$125,000.

# \$24.000 LEFT TO COOPER UNION.

To Be Paid on the Death of Mrs. Wibert-

Other Bequests by John Halstend. The will of John Halstead, filed yesterday, disposes of an estate of about \$50,000. The income of the whole of it is to go for life to Mrs. Hannah C. Wibert, who became a member of his mother's household in 1848. On her death her husband is to have \$5,000, and the following bequests will vest: Young Women's Christian Association, \$2,500; Young Men's Christian Association, \$2,500; Children's Aid Society, \$2,000; Chapin Home for the Aged and ciety, \$2,000; Unapin Home for the Aged and Infirm, \$2,000; Ladies' Aid Society, \$2,000; New York Skin and Cancer Hospital, \$2,000; St. Mary's Lodging House, \$2,000; United Relief Works of the Society for Ethical Culture, \$2,000; St. Barnahas Home, \$2,000, and Northern Dispensary, \$2,000. The rest of the estate is to go to Cooper Union. Mr. Halstead leaves no relatives.

OLD MR. STUDWELL NOT TO BE TRIED. His Niece, Who Accused Him, Thinks He's

Insane-Message from the Governor. Gov. Roosevelt, through his secretary, sent a letter to Judge McMahon about the case of George H. Studwell,84 years old, who had been indicted last fall on complaint of his niece. Jennie Atwater, of 273 West 114th street, for Jennie Atwater, of 273 West 114th street, for misappropriating \$38,530 in bonds belonging to her Inther's estate. Mrs. Atwater now informs the Court that she believes that her uncle is insane and that a trial would kill him. Gov. Roosevelt's secretary wrote that the Governor would be pleased to hear that the case had been disposed of as the complaining witness thought best. Mr. Studwell's bond was discharged yesterday and he will never be tried.

If it were not for the Spanish names of streets in the addresses of the merchants the advertisements in Freedom, a Manila newspaper, might easily be taken for advertisements in Yankeeland. Rival dealers in mineral waters include in their announcements rewaters include in their announcements reports of chemical experts to show the superjority of their brands. Ginger ale is 11 cents a bottle. Many of the restaurants advertise free shower baths. Saddle ponies, with or without guides, may be hired for \$3 a day for a ride to nearby battlefields. One man calls attention to his lunch room by this line:

"Remember old Dad. He made the first sandwich in Manila."

Another advertisement is: "McKiniey Reataurant, near Bridge of Spain,"

The auctioneers, physicians, lawyers and brokers who advertise, as a rule add the words "long experience in United States" to their eards.

The Rev. G. H. Patterson Asked to Resign NEWPORT. R. I., May 23. - The corporation of St. Mary's parish, South Portsmouth, has requested the rector, the Rev. G. Herbert Patterson, to resign. This news will be a surprise to New Yorkers who summer here, as many have attended the services at this little country church for years. It is situated next to Oakland farm, owned by Cornelius Vanderbilt, and that gentleman, it is said, contributed largely to the support of the parish. No reason is given for the action, but it is understood to be too much politics.

DROPS CHURCH UNITY PLAN.

PRESRYTERIAN ASSEMBLY MAKES NO OVERTURES TO THE SOUTH. Conditions Not Deemed Favorable Now Commission Takes Up the Warszawiak

Case-No Interference with the Religion of the Annapolis Naval Cadets. MINNEAPOLIS, Minn., May 23.-Although the Presbyterian General Assembly adjourned early this afternoon in order to go on a trolley trip to Lakes Harriet and Calhoun, a large

amount of work was done in the two sessions

Among the Commissioners appointed by

and by the committees.

Moderator Sample this morning was one to try the Warszawiak case. The commission held a brief preliminary session and decided to meet at 7:30 to-night. The Chairman o the commission is ruling Elder Robert N. Wilson of Philadelphia. The ministerial members of the commission are: the Rev. William P. Fulton, D. D., Pennsylvania; the Rev. Julius H. Wolff, New Jersey; the Rev. J. W. Kirk, Pennsylvania; the Rev. Finley F. Kennedy, Ohio: the Rev. Henry Branch, D. D. Balti-more; the Rev. George L. McIntosh. Indiana: the Rev. B. H. Gragg, Kansas; the Rev. J. E Blair, Oregon. The elders are: R. T. Quisenberry, Kentucky; Wesley B. Woodbury, Penn sylvania; John D. Gibson, Missourl; Granrille T. Jennings, Illinois: Thomas Navior. Iowa: D. M. Marrs, Indian Territory: Samuel R. Bell, Indiana; Henry C. Hunt, New Jersey. The point argued before the commission by eminent counsel to-night was a technical one. namely, whether the Assembly had authority

in the matter. Counsel for the New York Synod argued that its decision sending the case back to the Fifth Avenue Church session was final. Long arguments were made on both sides, and the case was taken under advisement by the commission. They will report to-morrow.

The case of Dr. McGiffert is still talked about on all sides. The Committee on Bills and Overtures has aiready wrestled with it, and it is known that two forms of report have been before the committee. One report, it is understood, favors recommending the New York Presbytery to try Dr. McGiffert. other report favors the appointment of a spesailant was.
At 8 o'clock to-night Sheriff Fitzroy brought
William Smith and William Adams, two other
residents of Stanwich, and but them in the lockup, after questioning them in regard to their
whereabouts last night. They will also be
held in the Close case. consult with Dr. McGiffert to see if it is not possible to get him to modify his views or class quietly withdraw from the Church and spare it the pain of a hereav trial. A heated controversy is expected when

the report of the conduct of the Church period-

icals during the past year comes before the convention. Up to Jan. 1 there were two official monthlies, the Church at Home and Abroad and the Assembly Herald. At that time they were consolidated, and the single publication s known by the latter name. The combinais known by the latter name. The combination was brought about because the two were losing ventures, both financially and in point of service. It now transpires that the combine has been a big failure financially under the new management. It is reported to have run behind to the extent of about \$5.000.

The morning session of the assembly was given up to a discussion of the work of the Presbyterian Home Missions, and the fact that the debt of \$167,000 existing a year ago has been wiped out was the cause of great enthusiasm. Reports from various fields were also considered very encourazing. The report of the committee, which was adopted, recommends among other things, that the synod plan of distributing home mission funds, adopted last year, having been found to work great hardship to missionaries in the field, the assembly return to the rule adopted in 1894, and that the following members of the board whose terms of office expire with this General Assembly, be reappointed; Ministers—The Rev. Thomas A. Nelson, D. D.; the Rev. James M. Ludiow, D. D.; the Rev. George L. Spinning, D. D. Elders—John E. Parsons, H. Fdwards Rowland, A. Noel Blakeman, James A. Beever also that the election of the Rev. Howard Agnew Johnston, D. D., to fill the unexpired term of the Rev. Dr. John Hall, D. D., decensed, be approved.

Preceding the discussion of the home missionary work several interesting reports were made by the standing committee, the time had not come for untiling the two great branches of the Church in the United States.

"In the whole matter, as conditions now are," said Dr. Radeliffe, the committee is of tion was brought about because the two were

had not come for uniting the two great branches of the Church in the United States. "In the whole matter, as conditions now are," said Dr. Radeliffe, the committee is of the opinion that the only course for the Church is to maintain a dignified silepce." The "conditions," It was said, are that a few old-timers in the Church of the South have not been able to get themselves, "reconstructed." They are of the "hard-headed" Prestructerian type of ante-bellum preacher, and will not live on earth forever. But while they do live they are influential and can be decended upon to resist all overtures looking to reuniting the two bodies. The report was adopted. Dr. Radeliffe also reported on the overture from the Presbytery of Baltimore protesting that the naval cadets at Annapolis are not allowed religious freedom. The concident alleged that the cadets are nominally forced to become Eniscopalisms. The matter had been investigated and it develoved that there is more smoke than fire in the scare. A cadet is allowed to choose any church in Annapolis on a written request to the authorities or on the written request of the parents if the order. more smoke than fire in the scare. A cadet is allowed to choose any church in Annapolis on a written request to the authorities or on the written request of his parents, if the cadet is a minor, and he may attend that church in place of the regular Sunday service at the Academy chapel. A letter was read from Secretary Long saying that the cadets are not interfered with in their religious opinions or church preferences and that the Chaplais of the Academy is a Methodist and a very fair and impartial spiritual adviser. The matter was not decided because of a lack of time, but there is not tilkerly to belin used discussion over it. Just how the Presbyterian Church will celebrate the going out of the old century and the advent of the new has not been determined. Resolutions were adopted in which, after referring to the bleasings of a century, it was provided that a committee be appointed to select some fitting way to express the Church's gratifude for mercies shown.

Alf for schools and colleges was the subject taken up at the afternoon session. In submitting the report of the committee, Dr. Shaw of New York urged the necessity of raising more money for this branch of the church work. The average amount raised by each church last year, he said, was only \$6 and no institution secured over \$600, though private subscriptions had added to the fund to be distributed.

"I know of one school," he said, "where six

institution secured over \$600, though private subscriptions had added to the fund to be distributed.

"I know of one school," he said, "where six teachers receive only \$100 above living expenses, of another where five teachers receive only \$25 each and of another where principal and wife got \$100 above living expenses and refused an offer of \$2500 a year made by a State institution. I call that heroism."

The Woman's isoard of Home Missions today elected officers as follows: President, Mrs. Darwin, R. James, Corresponding Secretary, Mrs. Frederick, H. Flerson: Young People's Secretary, Miss M. J. Petrie, Assistant Secretary, Mrs. John F. Pingry: Editorial Secretary, Mrs. D. F. Finks: Recording Secretary, Miss. V. M. White: Treasurer, Miss S. T. Lincoli, Corresponding Secretary of Freedman's Department, Mrs. C. E. Coulter, All are re-elected and from New York.

The synodical and Presbyterian officers and workers of the Minnesota Woman's Missionary Society gave an informal tea this afternoon for the visiting members to give them an opportunity of meeting the officers of the society and the missionaries who are at present in the city.

THE ROW AT ST. GEORGE. The Trouble Makers Not Employees of the Department of Buildings.

Building Commissioner T. J. Brady said yes-terday that the assertion made by a number of men who were arrested on Sunday for creating a disturbance at the ferryhouse at St. George, S. I., that they were employees of the Depart S. I., that they were employees of the Department of Buildings was absolutely untrue. No employee of the department, he declared, was concerned in the disturbance or knew of its occurrence until next day.

John R. Blake, captain of the ball team of the department, writes to THE SUN that the members of the baseball team representing the department, and their friends who witnessed the game at New Dorp, took the train from that place at 15:30 and left St. George on the boat connecting with that train some time previous to the disturbance, and had no knowledge of its cause, and of course took no part in it.

Painters at Brighton Beach Strike. The sixty-five painters and decorators employed in renovating the Brighton Beach Hotel quit work yesterday on account of the payment of non-union wages. The contract for the painting is in the hands of Rogers & for the painting is in the hands of Rogers & Harris of Manhattan, and the men demanded \$3 a day instead of the \$2.25 and \$2.50 which the majority have been receiving. The interior of the hotel is being renovated by day's work, and the men say they were compelled to work overtime without extra pay. They also say they were forced to work with several non-union men after it had been agreed that only union men at \$3 per day should be employed. A strike among the rainters at work on the Brighton Beach Music Hall is looked for to-day.

If You Haven't Tried It Before Begin now, and learn what other leading summer resurt advertisers have discovered through advertis-ing in Tax birs. The result, a desirable, well-pay-ing electage.—Aft. NEW YORK OUT OF THIS LEAGUE. Mayor Won't Let It Collegue with Munici-palities Committed to State Control.

Mayor Van Wyck has vetoed a resolution o the Board of Aldermen providing for the appointment of a committee of the Municipal Assembly to attend the Syracuse meeting of the League of American Municipalities in September. In his veto message the Mayor says that the league is committed to doctrines o that the league is committed to doctrines of State control and administration of municipalities entirely at variance with the principles of home rule as understood by the people of this city. The Mayor says that if city officials wish to attend the meeting there is no objection to their doing so, but he is not willing to approve a resolution "providing for official representation of the city at the meetings of an association which stands committed to doctrines that in operation and effect obliterate all vestiges of home rule for municipalities."

NEW LIFE NET TESTED.

Ex-Chief Bonner's Company Interested in

It-Trial Not Wholly a Success. A new form of life-saving net to be used at fires was tested in the drill yard at Tire Head quarters under the supervision of Chief Mo Adam of the school of instruction yesterday The company with which ex-Chief Hugh Bon-The company with which ex-Chief Hugh Bonner is connected is interested in the device and Mr. Bonner was present to witness the test. He expressed the opinion that the net would prove more effective than those at present used by the department.

The net is made of small rone meshes and is supported by four-iron posts when in service. A dummy thrown from a fifth-story windew landed in the net all right, but came down with such force that it tore, he net from the uprights and dropped to the ground. One of the iron posts was hurled aside and struck a fireman, bruising his right leg. It was decided to continue the test at some future day.

MARINE INTELLIGENCE.

MINIATURE ALMANAC-TRIS DAT. Sun rises.... 4 86 | Sun sets.. 7 18 | Moon sets. 8 45 might water-This Day. Sandy Hook, 8 23 | Gov. Ist'd. 8 55 | Hell Gate. 8 48 Arrived -Tuespat, May 23.

Arrived Tursdat, May 23.

Ba Friedrich der Grosse, Eichel, Bremen May 13,

Southampton 14th.

Se Kensington, Albrecht, Antwerp May 13.

Ba Haveline, Staplaton, Rio Janeiro,

Ba Alene, Lund, Savanilla.

Se Mongolian, Braes, Gliagow.

Se Georgic, Themson, Liverpool.

Se Haraid, Utne, Port Antonio.

Se Wooloomooloo, Penuin, Havre.

Se G. W. Clyde, Robinson, Georgetown.

Se Irhaka, Breckenfelder, Tampico.

Se Archimede, Oreng, Genoa.

Se Jamestown, Davie, Norfolk.

Se Gyprian Prime, Ord, santos.

Se Comanche, Pennington, Jacksonville,

Se El Mar, Grant, New Orleans.

Se (Ity of Macon, Dargett, Savannah,
Bark Oban Buy, Wakeler, Pisagua.

Bark Silicon, Janson, Atua.

[For inter arrivals see First Page.]

ARRIVED OUT Sa H. H. Meier, from New York, at Bremen.

PARKED. Sa Pretoria, from New York for Hamburg, passed Scilly.

Sa Cufic, from New York for Liverpool, passed Fastnet. SPORES.

Sa Delaware, from Plymouth for New York, May 12, lat. 40.48, long. 66.58. SAILED FROM FOREIGN PORTS.

Se Pannsylvania, from Boulogne for New York. Se Kaiser Wilhelm II., from Gibraltar for New York. SALLED FROM DOMESTIC PORTS.

OUTGOING STRAMBHIPS. La Touraine, Havre 2 00 P M 8t. Louis, Southampton, 7 00 A M Westernland, Autwerp, 10 30 A M Cymric, Liverpool, 12 00 M Comal, Galvesion cail To-Day. Ardandhu, Jamaica Comanche, Charleston Rio Grande, Brunswick .. 100 P M

Due Thursday, May 25. Bremen ... Liverpool. Hamburg Antwerp London. Gibraltar Gibraltar Due Saturday, May 27. City of Rome. New Orleans. Havana Due Sunday, May 28. .Havre Gibrelter La Gascogne.

MARRIED NSULL-BIRD,-On Tuesday, May 23, 1800, by

the Bey. James Millard Thilputt, Margaret Anna Bird to Samuel Insull. DIED.

COOLEY .- At Mount Vernon, May 23, Col. Alfred Cooley, aged 40 years. Notice of funeral later. OLIVER.-Monday, May 22, 1899, Ann Sutton

Roberts, widow of Robert Oliver. Services at her late residence, 451 East 117th st., New York, Wednesday, May 24, 1899, at 10 A. M.

CYPRESS HILLS CEMETERY.
Office I Madison Av., corner 23d st., N. Y. Special Motices.

WHEN the hair is thin and gray, PARKER'S HAIR BALSAM renews the growth and color, HINDERCORNS, the best curs for corns. 15 cents. PILES.-DR CHAPMAN, 107 East 23d. No cut-

Mew Publications.

NEW method teaching French: specimen 38c. (half prices. FRENCH ACADEMY, 853 Broadway, N. Y. French lessons: tris 50 . ESSAYS - Renan. Sainte-Renve. Schopen hauer, Shelley (mailed). PRATT, 1d1 6th av.

Foreign Notels.

# THE SAVOY HOTEL.

LONDON.

dens; commands an incomparable view. By night a fairy scene. A rendezvous for American society and European nobility, The entire house, nearly 300 rooms and 100 bathrooms, is sumpruously furnished, in-cluding the latest improvements. It is also solutely fireproof, down to the concrete floors. Pure water from an Artesian

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MR. HENRI MENGAY, Gon. Manaver; MR. KARL SAILER, Hotel Manayer.

The Savoy Restaurant.

Of gastronomie fame, is under direction of the incomparable Maitre d'Hotel incomparable Maitre d'Hotel America. Meals are served on the romantic balconies overlooking the Gardens and River, with St. Paul's and Westminster in sight. A special orchestra plays during dinner and suppe

CLARIDGES HOTEL, Grosvenor Square, in the heart of fashionable London: the abode of royalty and aristocracy; is "the last word" of modern hotel luxury. The best and costilest that Europe can produce has been employed in the for-Complete suites, including private vestibules, insures absolute privacy if desired. A Royal Suite (Prince of Wales's) with separate entrance from the street. Over 300 rooms and 100 bathrooms. The whole house is absolutely fireproof, and four broad fireproof staircases insure absolute safety. The cuisine and restaurant is "a feature" of the West End.

MR. HENRI MENGAY, Manager.

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and comfortable hotel in Italy. It is the chief rendezvous of American and English society. The lobbies and restaurant at night resemble a veritable "midsummer night's dream."

Is universally recognized as the most beautiful

The Restaurant Mariyaux, PARIS,

More familiar as "Joseph's," opposite the new Opera Comique, has an international cuisine of acknowledged reputation.

MR. A. PFYFFER, Manager.